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July 5, 2019

VIA, ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk/Executive Director
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

Re: • **ND 2019-11-E – Commission Directive, Dated June 26, 2019**
• **Comments of the South Carolina Solar Business Alliance, Inc.**

Ms. Boyd:

The undersigned represents Intervenor, South Carolina Solar Business Alliance, Inc., (hereinafter as, “SCSBA”).

Pursuant to this Commission’s June 26, 2019 Directive Order referenced hereinabove, Intervenor SCSBA hereby submits the following comments regarding the scheduling of proceedings to implement the newly enacted Act No. 62 of 2019 (“The Act”). This Commission’s June 26, 2019 Directive Order instructed parties to file comments “...regarding Johnson Development Associates, Incorporated’s and the South Carolina Solar Business Alliance, Incorporated’s Petition to Set a Consolidated Schedule or other scheduling issues.” It is the SCSBA’s understanding that in addition to comments specifically addressing the avoided cost proceeding(s) pursuant to S.C. Code Section 58-41-20, this Commission also wished to receive comments regarding the scheduling of the other proceedings required to implement The Act. The SCSBA respectfully submits the following comments responsive to this request.

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S.C. Code Ann. Section 58-41-20. (Avoided Cost)

The Act requires this Commission, "...as soon as is practicable..." to open a docket for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. Within six months after the effective date of this chapter, and at least once every twenty-four months thereafter, this Commission shall approve each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. S.C. Code Section 58-41-20(A).

On June 18, 2019 the SCSBA filed Joint Comments with Johnson Development Associates, Inc. ("JDA") requesting that this Commission consolidate the individual utility avoided cost dockets for purposes of conducting an expedited preliminary proceeding to establish guidelines for avoided cost methodologies. The Joint Comments recommended that after receiving comments from parties to the proceeding and holding a technical conference, this Commission would then issue an order in the consolidated proceeding establishing such guidelines for avoided cost methodologies, based on the comments and the technical conference. The utilities would then file proposed avoided cost rates, based on their chosen avoided cost methodology, consistent with the guidelines established by this Commission in the consolidated proceeding. The parties would have the opportunity to file testimony and engage in discovery, and this Commission would hold an evidentiary hearing and would subsequently vote on a final order by the November 18, 2019 deadline established by The Act.

On June 21, 2019 the SCSBA filed a Joint Petition to Set Consolidated Schedule, further describing a procedural process consistent with the schedule proposed in the June 18, 2019 Joint Comments. The SCSBA provided further elaboration that with respect to the "technical conference" recommended in the June 18, 2019 comments, SCSBA supported "...the holding of a technical conference, or other appropriate proceeding as determined by the Commission, held to directly solicit additional information from Parties regarding the avoided cost methodologies and principles." The SCSBA also clarified that "After this Commission issues an order establishing guidelines on avoided cost methodologies, this Commission would (either in this docket or in utility-specific dockets) consider specific avoided cost and other proposals, allowing

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for intervention, discovery, filed comments or testimony, and an evidentiary hearing as required by the Act.”

In response to the June 18, 2019 Joint Comments and the June 21, 2019 Joint Petition to Set Consolidated Schedule, Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress (“DEP”, collectively “Duke”) filed letters in opposition to SCSBA’s proposed consolidated schedule on June 20, 2019 and June 24, 2019. Dominion Energy South Carolina, Inc. (“DESC”) filed a letter in opposition to SCSBA’s proposed consolidated schedule on June 24, 2019. The SCSBA and JDA filed a Letter Regarding the Proposed Procedural Schedule on June 25, 2019, and on June 25, 2019 Duke filed a Response.

The SCSBA maintains its recommended consolidated procedural schedule as presented in the joint filings of June 18, 21, and 25, 2019. The SCSBA will not reiterate its arguments in full, but incorporates by reference the comments made in those filings. In addition, the SCSBA notes the following in response to the arguments advanced by Duke and DESC in their most recent filings:

- The Act does not specify whether a separate docket must be opened for purposes of considering each utility’s avoided cost calculations and methodologies, or whether these must be considered in a single avoided cost docket. It also does not say whether intervention, discovery, and an evidentiary hearing must be provided for in every stage of an avoided cost proceeding. SCSBA submits that the General Assembly left it to this Commission to decide, in its sound discretion, how best to manage these proceedings. SCSBA further submits that this Commission should exercise that discretion to adopt SCSBA’s proposal because it represents the fairest and most efficient case management strategy. The utilities’ preferred alternative—for this Commission to conduct two parallel proceedings, in which many of the exact same issues will be considered and decided separately—is highly inefficient and raises the possibility of inconsistency and unfairness. It should be noted that under the SCSBA’s proposal each party will only be required to submit a single set of prefiled direct testimony, and to attend only one evidentiary hearing. If separate dockets are held, the intervenors—*but not the utilities*—will have to prepare and submit two sets of direct testimony (one for each utility docket), and their witnesses and counsel will be required to attend two evidentiary hearings. This would be highly burdensome and unduly prejudicial to intervenors, and would give the utilities an additional strategic advantage in these proceedings—a fact they are no doubt aware of.

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- Duke's June 25, 2019 letter further demonstrates that its due process objections are baseless. Due process is not a constitutional right to procedures that one finds satisfactory; rather, it is a guarantee that one will not be deprived of a *liberty or property interest* without adequate procedures. *Kurschner v. Camden*, 376 S.C. 165, 171 (2008). Duke does not claim, nor could it, that it has a "liberty or property interest" in any particular outcome in the avoided cost proceeding. Even if it did, the South Carolina Supreme Court has held that due process "does not require a trial-type hearing in every conceivable case of government impairment of a private interest ... due process is flexible and calls for such procedural protections as the particular situation demands." *Id.* at 171-72 (citing *First Fed. Sav. Loan Ass'n of Walterboro v. Bd. of Bank Control*, 263 S.C. 59, 65 (1974) and *S.C. Dep't of Soc. Serv. v. Wilson*, 352 S.C. 445, 452 (2002)).

SCSBA emphasizes that contrary to Duke's and DESC's assertions, the proposed schedule is consistent with Section 58-41-20 and represents an appropriate and efficient use of resources in the context of the implementation of The Act. The SCSBA again requests that this Commission adopt its proposed procedural schedule for a consolidated avoided cost proceeding.

S.C. Code Ann. Section 58-37-60. (Integration Study)

S.C. Code Section 58-37-60 permits this Commission and the Office of Regulatory Staff ("ORS") to "...initiate an independent study to evaluate the integration of renewable energy and emerging energy technologies into the electric grid for the public interest." The integration of renewable energy is a highly significant issue given the demonstrated commitment to the development of renewable energy expressed by the General Assembly in enacting Act 62. Unlike other provisions of The Act, this Commission and ORS are not required to initiate an independent study within any specific timeframe.

Duke and DESC have both proposed renewable energy integration charges in prior filings before this Commission, and the SCSBA anticipates that the utilities will likely include proposed integration charges in the upcoming avoided cost proceeding(s). Based on the complexity and importance of renewable energy integration, and the flexibility The Act provides to this Commission in determining if and when it is appropriate to initiate such a study, the SCSBA recommends that this Commission initiate an integration study after this Commission has issued a final order in the avoided cost proceeding, and that it not consider an utility proposal for an integration charge prior to the completion of that study. This will allow all stakeholders greater opportunity to participate in or provide input regarding the integration study, and would provide

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this Commission with more complete, independently-developed information on which to base any decision about integration charges.

S.C. Code Ann. Section 58-37-40. (Integrated Resource Plan)

On June 19, 2019 the SCSBA and JDA filed Joint Comments on Integrated Resource Plan Related Procedural Issues in Docket Nos. 2019-224-E, 2019-225-E, and 2019-226-E. The Joint Comments recommended that, in recognition of the fundamental changes to the IRP requirements for electrical utilities established by revised code Section 58-37-40, and the significant expansion of Commission oversight of these issues, this Commission should establish a generic docket for purposes of adopting a uniform set of IRP requirements to clarify and support implementation of the new statutory language.

With respect to the timing of a consolidated docket, the SCSBA recommended that although the statute does not set a definitive timeline for implementation of updated IRP requirements, other than requiring that electrical utilities file an updated plan at least every three years along with annual updates, this Commission should establish a procedural schedule for late 2019 or early 2020, which would provide enough time for this Commission to issue an order clarifying IRP requirements and for electrical utilities to subsequently file IRPs in compliance with those requirements prior to the end of 2020.

The SCSBA reiterates its position that the establishment of a procedural schedule for late 2019 or early 2020 would be appropriate in this initial IRP proceeding. The SCSBA also maintains its recommendation that this Commission take steps to ensure that future procedural schedules relating to a range of interdependent issues, such as IRP filings and avoided cost, are designed to promote the efficient use of Commission and Party resources and to deliver practicable regulatory outcomes for utility customers and South Carolina's energy marketplace as envisioned in Act 62. This coordination could include, for example, staggering utility avoided cost and IRP filings on an annual basis.

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S.C. Code Ann. Section 58-27-460. (Interconnection)

S.C. Code Section 58-27-460 requires this Commission to “...promulgate and periodically review standards for interconnection and parallel operation of generation facilities to an electrical utility’s distribution and transmission system, where such interconnection is under the jurisdiction of the commission.” Within six months of the effective date of The Act, this Commission shall “...establish proceedings for the purpose of considering revisions to the standards promulgated pursuant to this section.” 58-27-460(A)(2).

The SCSBA recommends that this Commission establish a consolidated proceeding in which to review and consider any necessary amendments to the interconnection procedures applicable to electrical utilities, but that the procedural schedule in that docket not include any substantive milestones until 2020. Although interconnection is a critical issue for the SCSBA and the development of clean energy in South Carolina more generally, implementation of other aspects of the Act is likely to demand most of the Parties’ and this Commission’s attention for the remainder of 2019. In addition, Duke Energy, SCSBA, and other stakeholders are engaged in discussions regarding potential reforms to the interconnection process in Duke’s service territories, which could result in a joint proposal for queue reform. Starting substantive work in the interconnection docket in 2020 would give the parties additional time to work towards a consensus proposal.

S.C. Code Ann. Section 58-40-20. (Net energy metering)

S.C. Code Section 58-40-20 requires this Commission to open a generic docket no later than January 1, 2020, to (1) investigate and determine the costs and benefits of the current net energy metering program, and (2) establish a methodology for calculating the value of the energy produced by customer-generators.

The SCSBA recommends that this Commission adopt a net energy metering procedural schedule similar to the schedule provided in *Exhibit “1”*, attached hereto. The attached procedural schedule would begin with the notice of facilitated technical workshops in September 2019, followed by four facilitated workshops between October 2019 and March 2020. Parties would then file direct testimony in May 2020, with opportunities to file rebuttal and surrebuttal testimony in late June and early August, respectively. Following a status conference in September 2020, this Commission would hold an evidentiary hearing in October 2020, proposed

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orders and/or briefs would be filed by parties in December 2020, and this Commission would issue a final order in March 2021.

This proposed schedule would comply with the requirements of S.C. Code Section 58-40-20 and would provide a reasonable and appropriate opportunity for parties to provide input on the important and complex issues regarding the costs and benefits of the current net energy metering program and the establishment of a methodology for calculating the value of the energy produced by customer-generators.

Respectfully Submitted,
AUSTIN & ROGERS, P.A.

/s/Richard L. Whitt

Richard L. Whitt,
As Counsel for the South Carolina Solar
Business Alliance, Inc.

RLW/cas
cc: all parties of record, *via electronic mail*